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Attorneys for Defendant

**Attorneys for Defendant
WAL-MART STORES, INC.**

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHARLES RIDGEWAY, et al.,

CASE NO. 3:2008-CV-5221 SI

Plaintiffs,

CLASS ACTION

WAL-MART STORES, INC., a Delaware corporation dba WAL-MART TRANSPORTATION LLC, and Does 1-50, inclusive,

**JOINT STATEMENT CONCERNING
PLAINTIFFS REQUEST TO DEPOSE
WITNESSES IDENTIFIED IN WAL-
MART'S EXPERT DISCLOSURES.**

Defendants.

PLAINTIFFS' POSITION: On May 13, 2016, the Parties exchanged expert witness designations and reports. Wal-Mart designated Robert Topel PhD. Dr. Topel's report identifies Billy Deatherage and Ed Parris as Wal-Mart employees whose comments contributed to his opinions expressed in his report. Plaintiffs move the Court for leave to take the depositions of Mr. Deatherage and Mr. Parrish. Fed. R. Civ. Proc. 30(a)(2)(A) prescribes a presumptive 10 deposition limit in a civil suit. The Rule also allows a party to obtain leave of court where the proposed deposition would result in more than 10. Such leave of court is granted consistent with the principles set out in Fed. R. Civ. Proc. 26(b)(2).

1 Wal-Mart has refused to produce Mr. Deatherage and Mr. Parrish for deposition contending
 2 Plaintiffs have exhausted the 10 deposition limit set forth in Fed. R. Civ. Proc. 30(a)(2)(A(i)). See
 3 Exhibit "A" attached hereto. Plaintiffs had good cause to proceed with all prior depositions.
 4 Plaintiffs deposed Rich Aurit on October 17, 2013 and Ann Wilson on October 18, 2013. Both were
 5 produced in response to Plaintiffs initial Fed. R. Civ. Proc. 30(b)(6) deposition notice attached hereto
 6 as Exhibit "B". Plaintiffs deposed Jerry Jackson on May 29, 2014 who was a Wal-Mart General
 7 Transportation Manager and whose testimony was cited in the Court's order granting class
 8 certification. ECF No. 158. Plaintiffs deposed Robert L. Mosley on March 8, 2016, and Steven K.
 9 Davis on March 22, 2016, who are/were Wal-Mart General Transportation Managers and submitted
 10 declarations in opposition to Plaintiffs' Motion for Partial Summary Judgment. ECF Nos. 193, 194.
 11 Finally, Plaintiffs have deposed Michael Baler, Clayton Bradley, Anthony Fantasia, and Nathan
 12 Lewis who were identified in Wal-Mart's response to Plaintiffs' Special Interrogatories, Set No. 7 as
 13 persons who had personal knowledge of the frequency and duration of uncompensated activities
 14 performed by class members. See Wal-Mart's discovery responses attached hereto as Exhibit "C".

15 The Parties have also agreed to proceed with two more depositions. The first is the current
 16 General Transpiration Manager of the Red Bluff distribution center, John Vincent. Mr. Vincent
 17 submitted a declaration in support of Wal-Mart's opposition to Plaintiffs' motion for partial summary
 18 judgment. ECF No. 192. Finally, the Fed. R. Civ. Proc. 30(b)(6) witnesses identified by Wal-Mart to
 19 testify about Wal-Mart's electronically stored information pertaining to class members and stipulated
 to by the Parties is scheduled for deposition on June 21, 2016. ECF No. 226.

20 Good cause exists to take the depositions of Mr. Deatherage and Mr. Parrish. Both were
 21 identified in Dr. Topel's expert report as persons who provided Dr. Topel with information which
 22 formed the basis of his opinions. Specifically, Dr. Topel's report states: "[a]ccording to Billy
 23 Deatherage, Walmart Senior Strategy Manager-Fleet Operations, changing the break policy for
 24 California drivers in 2006 to allow for additional break time required approximately 5 to 7 percent
 25 more drivers to provide the same level of service in California." Report at p. 4 Similarly, Dr.
 26 Topel's report states: "Ed Parrish, Walmart Director of Human Resources, stated that it costs more to
 27 monitor and administer [the California] pay system." Report at p. 11. Wal-Mart's expert designation
 28 state that Dr. Topel's report will be used by Wal-Mart to support "one or more" motions for summary
 judgment. Therefore, the testimony of Mr. Deatherage and Mr. Parrish is directly relevant to the

1 opinions expressed by Dr. Topel. Plaintiffs are also entitled to test the veracity of the comments
2 attributed to them by Dr. Topel through the deposition process, including production of relevant
3 documents.

4 **WAL-MART'S POSITION:**

5 Plaintiffs' counsel has attempted multiple times to meet-and-confer regarding Wal-Mart's
6 position to no avail. Attached hereto as Exhibit "A" are true and correct copies of emails sent to
7 defense regarding the meet-and-confer attempts by Plaintiffs' counsel.

8 Dated: May __, 2016

Respectfully submitted,

9
10 WAGNER JONES KOPFMAN & ARTENIAN

11 /s/ Daniel Kopfman

12 Daniel Kopfman
Attorney for Plaintiffs and the Class.

13 I, Daniel Kopfman, attest that concurrence in the filing
14 of this document has been obtained from the other
signatory.

15 Dated: May __, 2016

Respectfully submitted,

16
17 GIBSON, DUNN & CRUTCHER LLP

18 /s/ Jesse A. Cripps

19 Jesse A. Cripps
Attorney for Defendant
WAL-MART STORES, INC.

EXHIBIT “A”

Dan Kopfman

From: Cripps, Jesse A. <JCripps@gibsondunn.com>
Sent: Tuesday, May 17, 2016 1:21 PM
To: Dan Kopfman
Subject: Bryan Depositions

Dan, after our call today about the depositions, someone reminded me that plaintiffs have already noticed and/or taken all of the depositions that they were allotted under the federal rules. When you get back to the office, can you give me a call to discuss?

Jesse A. Cripps
Partner

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Dan Kopfman

From: Conway, Catherine A. <CConway@gibsondunn.com>
Sent: Thursday, May 19, 2016 4:27 PM
To: Dan Kopfman
Cc: Andy Jones; Butch Wagner; Stan Saltzman (ssaltzman@marlinsaltzman.com); Lawrence Artenian
Subject: RE: PMQ

Dan,
As Jesse already told you, plaintiffs are not entitled to additional depositions Deatherage and Parrish will not go forward then. Cathy

Catherine A. Conway

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From: Dan Kopfman [<mailto:dkopfman@wagnerjones.com>]
Sent: Wednesday, May 18, 2016 4:28 PM
To: Conway, Catherine A.
Cc: Andy Jones; Butch Wagner; Stan Saltzman (ssaltzman@marlinsaltzman.com); Lawrence Artenian
Subject: RE: PMQ

Hello Cathy,

We are available on June 23, 2016 and/or June 24, 2016 to take the deposition of Wal-Mart's FRCP 30(b)(6) witness in Bentonville. Please confirm which date is most convenient for Wal-Mart. Also, if you could let me know whether we could depose Mr. Deatherage and/or Mr. Parrish on the 23rd, or 24th, I would appreciate it.

Thank you for your time and attention to this matter.

Daniel Kopfman
The Law Offices of
Wagner, Jones, Kopfman, & Artenian
1111 E. Herndon; Suite 317
Fresno, Ca 93720
559/449-1800

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From: Dan Kopfman
Sent: Tuesday, May 17, 2016 4:35 PM
To: 'Conway, Catherine A.'
Cc: Andy Jones; Butch Wagner; Stan Saltzman (ssaltzman@marlinsaltzman.com); Lawrence Artenian
Subject: RE: PMQ

Hi Cathy,

We are available for deposition on June 20, 2016. We would also request dates for the deposition of Dr. Topel, Billy Deatherage and Robert Parrish. We would like to schedule the depositions of Dr. Topel, Mr. Deatherage and Mr. Parrish to coincide with the June 20, 2016 deposition especially if the deponents will be located in Bentonville.

Thank you for your time and attention to this matter.

Daniel Kopfman
The Law Offices of
Wagner, Jones, Kopfman, & Artenian
1111 E. Herndon; Suite 317
Fresno, Ca 93720
559/449-1800

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From: Conway, Catherine A. [<mailto:CConway@gibsondunn.com>]
Sent: Friday, May 13, 2016 1:26 PM
To: Dan Kopfman
Subject: PMQ

Dan does the week of June 20th work on your end? Cathy

Catherine A. Conway

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Dan Kopfman

From: Dan Kopfman
Sent: Wednesday, May 25, 2016 4:42 PM
To: 'Cripps, Jesse A.'
Cc: Conway, Catherine A.; Blas, Lauren M.; Andy Jones; Butch Wagner; Lawrence Artenian; Stan Saltzman (ssaltzman@marlinsaltzman.com)
Subject: RE: Bryan -- Named Plaintiff Depositions

Hello Jesse,

In consideration of your response, please return the Joint Statement regarding the depositions of Mr. Deatherage and Mr. Parrish with Wal-Mart's position by the close of business tomorrow for filing Friday morning.

Thank you for your prompt time and attention to this matter.

Daniel Kopfman
The Law Offices of
Wagner, Jones, Kopfman, & Artenian
1111 E. Herndon; Suite 317
Fresno, Ca 93720
559/449-1800

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From: Cripps, Jesse A. [<mailto:JCripps@gibsondunn.com>]
Sent: Wednesday, May 25, 2016 1:32 PM
To: Dan Kopfman
Cc: Conway, Catherine A.; Blas, Lauren M.
Subject: Bryan -- Named Plaintiff Depositions

Dan, can you please provide me availability for depositions for each of the named plaintiffs over the next few weeks, along with their preferred location of the deposition? I'd like to have dates by Tuesday, if possible. Thanks much.

Jesse A. Cripps
Partner

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PROOF OF SERVICE

I am employed in the County of Fresno; I am over the age of 18 years and not a party to the within above-entitled case.

On May 27, 2016, I served the within document described below on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

JOINT STATEMENT CONCERNING PLAINTIFFS' REQUEST TO DEPOSE WITNESSES IDENTIFIED IN WAL-MART'S EXPERT DISCLOSURES

<p>Jesse A. Cripps E-File GIBSON, DUNN & CRUTCHER LLP 333 South Grand Avenue Los Angeles, CA 90071-3197 213/229-7000 213/229-7520 – Fax jcripps@gibsondunn.com</p> <p>James H. Hanson SCOPELITIS, GARVIN,LIGHT, HANSON & FEARY, PC c/o GIBSON, DUNN & CRUTCHER LLP 333 South Grand Avenue Los Angeles, CA 90071-3197</p>	<p>Mail Jacob Weisberg Law Offices of Jacob Weisberg 844 N. Van Ness Avenue Fresno, CA 93728 559-441-0201 559-442-3164 Fax jmw@jweisberglaw.com</p>
<p>Stanley Saltzman Mail MARLIN & SALTZMAN 29229 Canwood St., Ste. 208 Agoura Hills, CA 91301 818/991-8081 Fax</p>	

- 17 **(BY MAIL)** placing the envelopes for collection and mailing on the date and at my address shown above following our ordinary business practices. I am completely familiar with Wagner, Jones, Kopfman & Artenian LLP's practice of collection and processing correspondence for mailing pursuant to which the envelopes would be deposited with the United States Postal Service the same day in the ordinary course of business.
- 18
- 19
- 20 **(BY OVERNIGHT MAIL SERVICE)** by placing the envelope for collection following our ordinary business practices for collection and processing correspondence for mailing by express or overnight mail.
- 21
- 22 **(BY FACSIMILE)** In addition to service by mail as set forth above, the person(s) by whose name an asterisk is affixed, was also forwarded a copy of said documents by facsimile.
- 23
- 24 **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the addressee.
- 25
- 26 **(BY ELECTRONIC MAIL)** In addition to service by mail indicated above, I caused such documents to be scanned into PDF format and sent via electronic mail to the electronic mail addressee(s) of the addressee(s) designated above.
- 27
- 28 **(BY FEDERAL ELECTRONIC FILING)** I caused the documents to be electronically

filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing and copies of the documents to the parties.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 27, 2016, at Fresno, California.



Karin L. Schemen